

***Conversent Communications, LLC***

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**DOCKET FILE COPY ORIGINAL**

November 16, 1999

**VIA OVERNIGHT MAIL**

Ms. Magalie Roman Salas  
Secretary  
Federal Communications Commission  
Portals II  
445 12<sup>th</sup> Street, SW  
Washington, DC 20554

**RECEIVED**

**NOV 17 1999**

**FCC MAIL ROOM**

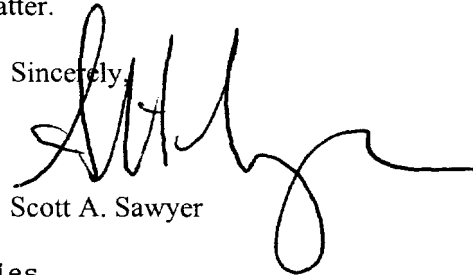
**Re: CC Docket No. 94-129, Conversent Communications, LLC Petition for Expedited Waiver**

Dear Ms. Salas:

Enclosed for filing is Petition for Expedited Waiver of Conversent Communications, LLC and BLD, Inc.

Thank you for your assistance in this matter.

Sincerely,



Scott A. Sawyer

Enclosure : Original and four (4) copies

SAS/skm

No. of Copies rec'd 0 + 2  
List ABCDE

Before The  
**FEDERAL COMMUNICATIONS COMMISSION**  
Washington, DC 20554

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In The Matter of Implementation of the )  
Subscriber Changes Provisions of the )  
Telecommunications Act of 1996 )  
Policies and Rules Concerning Unauthorized )  
Changes of Consumers' Long Distance )  
Carriers )  
Conversent Communications, LLC Request )  
For Waiver )  
\_\_\_\_\_

CC Docket No. 94-129

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**PETITION FOR EXPEDITED WAIVER**

Conversent Communications, LLC ("Conversent") and BLD, Inc. ("BLD") (jointly, the "Petitioners") by their attorneys pursuant to Section 1.3 of the Commission's Rules, respectfully petition the Commission to grant a limited waiver of 47 C.F.R. Sections 64.1100-64.1190 as required to transfer certain presubscribed business customers of BLD to Conversent without first obtaining each subscriber's individual authorization and verification. In addition, Petitioners respectfully request expedited treatment of this petition, to the extent necessary, to allow Petitioners to effectuate the proposed transfer on or before December 15, 1999.

Conversent is the parent company of several operating competitive local exchange carriers, including but not limited to Conversent Communications of Maine, LLC; Conversent Communications of New Hampshire, LLC; Conversent Communications of Massachusetts, LLC; Conversent Communications of Rhode Island, LLC; and Conversent Communications of New York, LLC.<sup>1</sup> Conversent is also the parent company of an interexchange carrier, Conversent Communications-LD. Each of the operating CLECs concurs with Conversent Communications-LD's FCC tariff.

\_\_\_\_\_  
<sup>1</sup> Each of Conversent's operating competitive local exchange carriers are or will become facilities-based carriers.

BLD is a competitive local exchange carrier ("CLEC") and interexchange carrier ("IXC") that maintains its headquarters in Woburn, Massachusetts. BLD operates in the states of Maine, New Hampshire, Rhode Island, Massachusetts, and New York. BLD provides local service by reselling local exchange services purchased from Bell Atlantic.

Conversent and BLD have entered into a Purchase Agreement whereby Conversent will purchase BLD's existing resale customer base in the states of Maine, New Hampshire, Massachusetts, Rhode Island, and New York. The transfer of customer accounts is scheduled to occur on December 15, 1999.

All of the customers affected by this transaction are business accounts. Some customers currently subscribe to BLD local services, some are presubscribed to BLD interexchange services, and some are subscribed to BLD local and interexchange service. Under the terms of the agreement between the parties, the applicable operating company of Conversent will replace BLD as both the local and long distance carrier (where applicable) for the customers involved.

Importantly, affected customers will be fully informed of the change. Conversent will make reasonable attempts to contact each affected customer individually (either by telephone, written notice, or in person) to explain the process, and inform the customer of its rights and options, including the customer's right to select a carrier other than Conversent. Written notice will be sent to each customer. The written notice will inform customers of the automatic switch in their telecommunications service provider to Conversent on or about December 15, 1999; that there will be no charge to the customer; that there will be no change to the way they dial or the customer service available to them; of the benefits of staying with Conversent; and of the option to change carriers to another service provider if they prefer. The notification letter will also invite customers to visit Conversent's web site or to dial a toll free number for more information. After the migration, virtually all affected customers will be provided service at equivalent or lower rates.

Petitioners respectfully submit that the purpose of the Commission's LOA and verification rules would not be served by obtaining prior authorization and verification in order to switch the affected customers of BLD to Conversent, and that the public interest is served by granting a waiver of those rules in these limited circumstances. Further, the Petitioners fear that such a "re-presubscription" effort would prove confusing and frustrating to customers. Customers who do not understand the need to sign new forms, and fail to respond, could lose service altogether or pay potentially higher casual calling rates. Accordingly, Petitioners believe that any potential benefits of obtaining new authorizations are outweighed by the potential detriments of such a program, and submit that all efforts will be taken to ensure that customers are not inconvenienced or harmed in any way. Indeed, Petitioners' goal is to be able to provide superior service and rates to affected customers as a result of the migration.

It is well-established that waiver of the Commission's Rules is appropriate if special circumstances warrant a deviation from the general rule, and such a deviation will serve the public interest.<sup>2</sup> The party requesting waiver must show that the underlying purpose of the rule would not be served or would be frustrated, or that unusual or unique circumstances cause application of the rule to be unfair, unduly burdensome or contrary to the public interest.

In the instant case, the special circumstances requiring a deviation from the Commission's Rules include the need to ensure a seamless transition of local and long distance telecommunications service providers for the affected customers. If the Commission grants the waiver, it will protect against the possibility of customers losing local and/or long distance service altogether or being charged potentially higher casual calling rates. Moreover, the affected customers will be notified promptly of the process and their rights and options. By transferring customers by notification as described in this request, the policy goals of the Commission's authorization and verification requirements will be met more efficiently and

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<sup>2</sup> See *WAIT Radio v. FCC*, 418 F.2d 1153, 1157-1159 (D.C. Cir. 1969), *cert. Denied*, 409 U.S. 1027 (1972); *Northeast Cellular Telephone Co. v. FCC*, 897 F.2d 1164, 1166 (D.C. Cir. 1990).

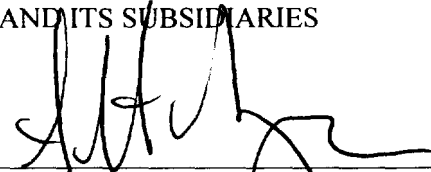
consistent with the public interest. Indeed, the circumstances that justify grant of a waiver to Petitioners are analogous to those that the Commission recently found to justify a waiver for several other carriers.<sup>3</sup>

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<sup>3</sup> See, e.g., *Excel Telecommunications, Inc., et al. Request for Waiver*, DA 99-1992, released September 29, 1999; *AT&T Corporation Request for Waiver*, DA 99-1718, released August 27, 1999; *MCI WorldCom, Inc. Request for Waiver*, DA 99-11549, released August 6, 1999; *Primus Telecommunications Group, Inc. Petition for Waiver*, DA 99-1550, released August 5, 1999; *Citizens Telecommunications Company Alliance Group Service, Inc. Joint Request for Waiver*, DA 99-1521, released July 30, 1999; *Startec Global Operating And PCI Communications, Inc. Request for Waiver*, DA 99-1461, released July 23, 1999.

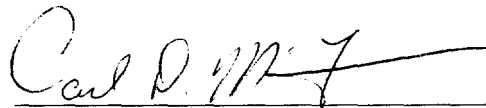
Accordingly, Petitioners respectfully request that the Commission waive its authorization and verification rules as set forth above. Expedited action on this waiver is requested to the extent necessary to allow Petitioners to effectuate the customer migration on or *before December 15, 1999*. A limited waiver of the Commission's LOA and verification rules will allow a seamless transfer that will be transparent and advantageous to customers.

Respectfully submitted,  
CONVERSE COMMUNICATIONS, LLC  
AND ITS SUBSIDIARIES



By: Scott Sawyer, Esq.  
Vice President, Regulatory Affairs  
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(508) 486-6398

BLD, Inc.



By: Carl McFadden  
President  
208 Cummings Park  
Woburn, MA 01801  
(781) 721-9933

Dated: November 15, 1999

**CERTIFICATE OF SERVICE**

I, Scott Sawyer, hereby certify that on this 15<sup>th</sup> day of November, 1999 a copy of the foregoing **PETITION FOR EXPEDITED WAIVER** was delivered by overnight mail to the following:

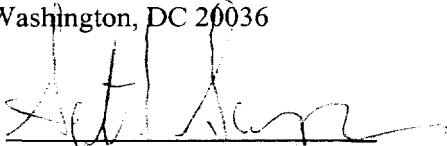
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